

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: McClintock, et al. Analyst: LuAnna Hass Bill Number: SCA 3
Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: April 21, 2003
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Expenditures Limit/Issuance Of Rebates

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 6, 2003.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 6, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This measure would require the Franchise Tax Board (FTB) and the State Controller to issue refunds of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year.

This analysis will not address the measure's changes to the other provisions of the California Constitution regarding various appropriations, local government, and the State School Fund, as they do not impact the department or state income tax revenue.

SUMMARY OF AMENDMENTS

The April 21, 2003, amendments added coauthors and made various changes to the provisions regarding excess state revenues and refunds to be issued by the state. Specifically, the amendments would:

- rename the Rebate Account as the Refund Account,
- clarify that the funds in the Refund Account would be refunded to taxpayers on or before November 1 of the fiscal year following the end of a fiscal year with excess revenues,
- specify that each refund must be a minimum of \$5 and if a balance remains in the Refund Account after FTB and the Controller calculate the minimum refund for each taxpayer, then the remaining balance of the Refund Account would be refunded in the manner described in the bill as introduced on February 6, 2003, and
- specify that in the event the amount in the Refund Account is insufficient to provide each person, corporation, or entity the minimum \$5 refund, then the Controller and FTB are to randomly select those taxpayers that would receive the minimum \$5 refund.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Jana Howard for Brian Putler 5/13/03

The remainder of the department's analysis of the bill as introduced February 6, 2003, still applies. The existing concerns and fiscal impact are included below for convenience.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

The Revenue and Taxation Code requires FTB to administer and enforce the income tax laws. This constitutional amendment generally would require FTB and the Controller to oversee the issuance of refunds. Additional enabling legislation would not be needed for the issuance of refunds if the voters pass the proposed constitutional amendment and the State receives excess funds subject to refund under this measure.

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the measure moves through the legislative process. In order for FTB to implement this measure, clarification is needed for at least the following issues:

- Clarification of the phrase "pro rata basis." Under this measure, certain excess revenue must be refunded to California taxpayers on a pro rata basis to persons, corporations, or other entities that paid taxes on, or measured by income. It is unclear what specific criteria or measures FTB would use to determine the pro rata share of refund for each taxpayer. The following are a few of the questions that should be addressed:
 - Would the refund amount be based on factors such as total income or total tax?
 - Would there be a maximum refund amount?
 - Would the refund amount for taxpayers who are married and filing a joint tax return be twice the amount of a refund for an individual taxpayer?

In addition, the department receives annually approximately 2,000 Corporation Franchise Tax returns from corporations that have income of at least \$10 million, which accounts for 70% of the franchise tax payments. If "pro rata basis" were based on tax paid, corporations eligible for the refund under this bill would receive a bulk of the refund money.

- A time frame for the issuance of the refunds. This measure provides the refund is in proportion to the taxpayer's tax liability and all funds in the Refund Account must be refunded on or before November 1 of the fiscal year following the end of a fiscal year with excess revenues. However, personal income tax returns may be filed, with extension, until October 15. The department generally processes returns within six months of receipt, which means a majority of the tax returns should be processed by April of the following year. In order to calculate refunds proportionate to the tax liability, FTB would need to process all tax returns for the identified tax year prior to calculating the refund amount to ensure all eligible taxpayers are accounted for. For example, tax returns for the 2002 taxable year may be filed until October 15, 2003, and most of the processing completed by April of 2004. Therefore, if the state has excess revenues for the 2002/2003 fiscal year, FTB may be able to begin calculating the refunds in April 2004 based on the 2002 taxable year.

- Provisions of the Internal Revenue Code require reporting of state or local income tax refunds to the IRS. Although the refund payments are based on funds available from excess state revenues, and not solely derived from excess income taxes paid, it is likely that the refund would be required to be reported to the IRS.
- Could refund payments be revised after issuance? Depending on the factors determining the pro rata refund amount, certain circumstances could result in refund revisions. These factors include the receipt of amended returns, audit adjustments, or processing errors.
- How will offsets to FTB, the Internal Revenue Service, and other State agencies be handled? Currently, these agencies participate in an agency-offset process where refunds are offset to satisfy an outstanding liability owed by the taxpayer to another government entity. Without clarification this could be construed as either a payment of excess state revenues or a refund of taxes paid. As such, clarification would be needed on whether these payments would be subject to the agency-offset process.

If these concerns and any additional concerns that may be identified are not clarified in this measure, then the department would need future enabling legislation prior to the issuance of the refunds. In addition, if FTB were responsible for issuing the refunds as proposed by this measure, the department would need to create a new system for issuing and processing the refunds. This measure does not include an appropriation to cover the costs of developing a system for issuing and processing the refunds. Without an appropriation the department would be required to redirect resources from revenue producing activities to implement this measure.

FISCAL IMPACT

The department's costs to administer this bill cannot be determined until implementation concerns have been resolved but are anticipated to be significant. At a minimum, the department would need to implement a system to calculate and issue the refunds proposed in this bill. In addition, it is likely that the department would receive additional phone calls and visits to field offices from taxpayers inquiring about the random selection of taxpayers receiving refunds.

ARGUMENTS/POLICY CONCERNS

Other methods are available to refund excess State revenue that may be accomplished more efficiently, such as a change in 1) tax rates, 2) taxable income brackets, or 3) the standard deduction.

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